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27 1981

[REDACTED]

Dear Applicant:

Your application for exemption from Federal income tax as an organization described in Section 501(c)(7) of the Internal Revenue Code has been considered.

The information submitted by you indicates that your organization was incorporated on [REDACTED] under the statutes of the State of [REDACTED] as a nonprofit organization. Your purposes, as stated in your Articles of Incorporation, are "literary and educational; to increase public awareness and knowledge of the fields of science fiction and fantasy; to encourage the reading and writing of fantasy and science fiction; and to hold an annual convention of authors, educators, readers, editors, artists, publishers, and others active in these fields...for the exchange and dissemination of knowledge regarding science fiction, fantasy, and related fields."

Your application and additional information received discloses that the primary activity of your organization is an annual three-day convention open to the public, for the price of a membership, and which features a program of panels, speeches and other information material; a dealers room where out-of-print collectors' books are available for sale; an art show-auction for display and sale by amateurs; a film room featuring odd, obscure and classic films from the past; a masquerade with examples of various costumes from science fiction stores; and the opportunity to encounter others who enjoy science fiction literature.

Your club evidently consists of a core group of individuals who meet weekly to discuss topics of interest in science fiction. You also speak before groups on the subject of science fiction and fantasy.

The income of your organization is derived primarily from fees paid by the public to attend your convention. Dealers pay a slightly higher fee to sell.

Section 501(c)(7) of the Internal Revenue Code exempts from Federal income tax clubs organized for pleasure, recreation, and other nonproftable purposes, substantially all of the activities of which are for such purposes and no part of the net earnings of which inures to the benefit of any private shareholder.

[REDACTED]

Revenue Ruling 58-589 sets forth the criteria for exemption under Section 501(c)(7) of the code, and provides that a club must have a membership of individuals, personal contacts and fellowship. A commingling of members must play a material part in the activities of a social club. Therefore, it is not possible to consider the individuals who attend your annual convention as members because they do not commingle as members during the year. The fact that they pay an amount equal to membership dues to attend the convention is not relevant.

Revenue Ruling 68-638 refused exemption under Section 501(c)(7) to a country club that annually hosted a golf tournament to which the general public is admitted for a charge.

Section 1.501(c)(7)-1(b) of the Income Tax Regulations states that a club which engages in business, such as making its social and recreational facilities available to the general public or by selling real estate, timber, or other products, is not organized and operated exclusively for pleasure, recreation, and other nonprofitable purposes, and is not exempt under Section 501(c)(7) of the code. Solicitation by advertisement or otherwise for public patronage of its facilities is prima facie evidence that the club is engaging in business and is not being operated exclusively for pleasure, recreation, or social purposes.

Public Law 94-568 specifically limits the amount a club may receive from nonmembers to 15% of the gross receipts in any fiscal year. The amount received from nonmembers by your club is approximately █% each year.

In addition, the fact that members use the convention to sell material and books indicates a purpose other than social.

Based upon the information submitted, it is our conclusion that you are not operating exclusively for pleasure, recreation and other nonprofitable purposes and that you do not qualify for exemption as an organization described in Section 501(c)(7) of the code. Your request for exempt status is denied and you will be required to file income tax returns for each year of your existence on Form 1120.

If you do not agree with these conclusions, you may request Appeals Office consideration. To do this, you must submit to the District Director within 30 days from the date of this letter, a statement of facts, law, and arguments, in duplicate, which will clearly set forth your position. You also must state whether you wish an Appeals Office conference. Any submission must be signed by one of your principal officers. If the matter is to be handled by a representative, the Conference and Practice Requirements regarding the filing of a power of attorney and evidence of enrollment to practice must be met.

If we do not hear from you within the time specified, this communication will become our determination in the matter.

Very truly yours,

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District Director